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City Club of Portland

BULLETIN

Portland, Oregon

Vol. 57, No. 22

Benson Hotel, Mayfair Room

12:00 Noon

Friday, October 29, 1976

THE PROGRAM: City Club members will have the opportunity to discuss and vote on four November ballot measure reports, which are printed herein. The reports will be presented in the order shown below:

STATE MEASURE NO. 10

REPEALS LAND USE PLANNING COORDINATION STATUTES

The Committee: Pauline Anderson, A. B. Herman, Michael C. Kaye, Gary N. Pennington, William N. Stiles, Don A. Wrenn, William K. Blount, *Chairman*.

STATEMENT ON STATE MEASURE NO. 11

Oral Report by Alex Pierce, Chairman, Standing Committee on Health, Welfare & Social Services.

STATE MEASURE NO. 12

PROPOSED REPEAL OF COMPREHENSIVE AUTHORITY FOR INTERGOVERNMENTAL COOPERATIVE AGREEMENTS AND REGIONAL COUNCILS OF GOVERNMENT ("COGS") AND ENABLING STATUTE FOR COLUMBIA REGION ASSOCIATION OF GOVERNMENTS ("CRAG")

The Committee: Robert S. Ball, A. E. Brim, Dennis Hartman, Stephen R. Moore, Leslie Roberts, Durward E. Wright, William N. Gross, *Chairman*.

MEASURE NO. 26-15

PORT OF PORTLAND

SHIPYARD AND DRYDOCK BONDS

The Committee: Paul Fellner, James Kirkham Johns, David J. Lewis, James C. Wolfard, Robert G. Yingling, Jr., Ann Hoffstetter, *Chairman*.

VOTE NOVEMBER 2

Following is a summary of committee reports on November ballot measures, with the committee recommendation and the Club vote. (Reports yet to be voted on, as of the preparation of this publication, show no Club action.)

STATE MEASURES**#1 VALIDATES INADVERTENTLY SUPERSEDED STATUTORY AMENDMENTS**

Committee Majority	NO
Committee Minority	YES
Club Vote	NO

#2 ALLOWS CHANGING CITY, COUNTY ELECTION DAYS

Committee	NO
Club Vote	NO

#3 LOWERS MINIMUM AGE FOR LEGISLATIVE SERVICE

Committee	YES
Club Vote	YES

#4 REPEALS EMERGENCY SUCCESSION PROVISION

Committee	NO
Club Vote	NO

#5 PERMITS LEGISLATURE TO CALL SPECIAL SESSIONS

Committee Majority	NO
Committee Minority	YES
Club Vote	NO

#6 ALLOWS CHARITABLE BINGO

Committee Majority	YES
Committee Minority	NO
Club Vote	YES

*(Continued on page 180)***CITY CLUB OF PORTLAND BULLETIN**

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This is to reaffirm the policy stated by the Board of Governors in an earlier edition of this Bulletin this year that the City Club does not approve or condone the use of the Roster for solicitation purposes, political or otherwise.

**REPORT ON
STATE MEASURE NO. 10**

REPEALS LAND USE PLANNING COORDINATION STATUTES

Purpose: Repeals Oregon statutes adopting state coordination and control of land use planning, statewide land use goals and guidelines, and state agency review of local comprehensive plans and land use decisions; repeals statutes creating the Land Conservation and Development Commission (LCDC) and the Department of Land Conservation and Development.

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION AND SCOPE OF RESEARCH

A *yes* vote on State Measure No. 10 would repeal Senate Bill 100 and abolish the Land Conservation and Development Commission (LCDC). The land planning process would then depend on non-centralized governmental controls.

Your Committee interviewed the witnesses listed in Appendix I. Your Committee believes that these witnesses provided a representative group for the study of State Measure No. 10. Witnesses opposed to the measure were generally easier to locate than those in favor. Some of the research information used by the Committee is listed in Appendix II. In spite of the limited time to analyze thoroughly all aspects of State Measure No. 10 and the LCDC, your Committee believes that the witness interviews coupled with available data were sufficient to come to the unanimous conclusions of this report.

II. HISTORY AND BACKGROUND

Our founding fathers believed that private ownership of land was one of the basic rights of free men. The Fifth and the Fourteenth Amendments to the U.S. Constitution guarantee that no person shall be deprived of property without due process of law, and that no one's property shall be taken for public use without just compensation. The winning of the frontier was accomplished by Homestead Acts enabling millions of citizens to acquire, own and make a living from land.

With population growth and rapid urbanization, Americans have only recently acknowledged that their undeveloped land may be a dwindling resource. The nation has experienced a rapid build-up of sub-divisions, shopping centers, industrial plants and a multitude of related utility systems to serve this growth. Despite the need to plan for these changes, many regions have formulated decisions based on expediency, tradition and short-term economics without regard to their regional or state-wide impact. A principle now gaining increasing recognition is that one's free use of land cannot infringe upon the legally protected interests of other landholders or of the community.

In twentieth century America, zoning has been used to control use of land. More recently, some states have adopted various comprehensive land use plan systems. References to comprehensive land use planning in Oregon statutes have existed since 1919.

The Oregon legislature in 1969 adopted a most significant land use planning statute, Senate Bill 10 (S.B. 10). This statute required counties to have comprehensive plans which would conform to broad standards, but did not provide either the funds, or a workable enforcement agency, to insure that comprehensive plans would be adopted. By January 1974, thirteen of Oregon's 36 counties had not yet adopted comprehensive plans, and in some counties where plans had been adopted, the plans were not of high quality. Significant portions of S.B. 10 had been presented to the people on the 1970 ballot and received approval from the voters.

In 1973 the legislature enacted S.B. 100 to broaden, strengthen and enforce land use planning. S.B. 100 made state land use goals mandatory. S.B. 100 also created and funded an administrative agency, the Land Conservation and Development Commission (LCDC), to determine and define statewide land use goals and guidelines, coordinate comprehensive planning, and assure compliance by local planning units with the goals and guidelines. S.B. 100 requires active citizen involvement in the on-going land use planning process at all governmental levels.

The LCDC was directed to adopt by January 1, 1975 statewide planning goals and guidelines which would then be used by the 276 cities and counties in Oregon in preparing, adopting, revising and implementing comprehensive plans. LCDC used S.B. 10's ten broad goals as the base; these were refined and enlarged upon to develop the present fifteen statewide planning goals and guidelines. This task was accomplished by holding 56 public hearings around the state to ascertain citizen attitudes and concerns, and 18 additional public hearings and work sessions on the drafts of the goals. The goals and guidelines were formally adopted on December 27, 1974. The legislation provided that local government bodies would have one year in which to bring their comprehensive plans into compliance with the state goals, with time extensions possible upon evidence of "satisfactory progress."

In the event that local planning units fail to accomplish the prescribed planning task, LCDC must provide assistance or take on the job itself—the latter a responsibility it has yet to assume.

Other land use management bills were passed by the 1973 legislature, buttressing and complementing S.B. 100, covering farm use zoning, special assessments, uniform building code, subdivisions, and county and city planning commissions.

S.B. 100 requires the Joint Legislative Committee on Land Use to study and recommend to the legislature a program for compensating landowners for property value losses due to regulations and restrictions. No corrective legislation has yet resulted from this study.

In 1973 and 1975 the Oregon Supreme Court handed down two important decisions on land use planning. *Fasano v. Board of Commissioners of Washington County*, 264 Or. 574, 507 P2d (1973), held that local governing bodies making zoning decisions on particular parcels of property act in a quasi-judicial capacity and must be impartial on the matter, avoid any prehearing or ex parte contacts with contestants, must put the burden of proof for the change on those requesting the change, allow contestants to present and rebut evidence, and decide the matter based only on testimony and exhibits offered at the hearing. *Baker v. City of Milwaukie*, — Or —, 533 P2d 722 (1975) held that a comprehensive plan is the controlling land use planning instrument for a city (or county), and that upon enactment of a comprehensive plan, a city must conform prior, less restrictive zoning, and future zoning, to that plan.

These two decisions give more legal significance to comprehensive plans than the legislature may have envisioned in enacting S.B. 100. The *Fasano* decision provides some protection to the public from local governments making judicial land use decisions behind closed doors.

For the 1975-77 biennium, the LCDC has a budget of \$5.7 million (after excluding a federal grant of \$1.7 million for the South Slough Sanctuary, Coos Bay). The source of these monies is \$1.7 million from various federal grants and \$4.0 million from State of Oregon general funds. The LCDC budget of \$5.7 million will be utilized as follows:

to cities and counties for planning	\$4.4 million
for county coordination in planning	1.1 million
administration2 million
	<u>\$5.7 million</u>

To some citizens of Oregon, land use planning as required by S.B. 100 is the usurpation by the state of private rights. To others it is the only way to maintain the integrity of the land resource which is the foundation of much of Oregon's ability to produce wealth and life quality.

Ballot Measure No. 10 seeks to repeal S.B. 100 and abolish LCDC.

III. ARGUMENTS PRESENTED IN FAVOR OF THE MEASURE

1. Seven persons appointed by the governor to the LCDC cannot know as much about local lands as do local officials.
2. LCDC takes away local control of land use planning.
3. LCDC adds another layer of government and bureaucracy.
4. LCDC has inexperienced commission members and staff. LCDC has at times been arrogant and unresponsive to the public.
5. The citizen involvement process has not been effective.
6. The LCDC goals and guidelines are too vague for planners to apply on a consistent basis throughout the state; some are just pipedreams.
7. The result of S.B. 100 will be only a patchwork plan rather than a statewide plan.
8. Comprehensive plans required by LCDC could be difficult to change.
9. Passage of Measure No. 10 would encourage the legislature and public to take a fresh look at land use planning.
10. If Measure No. 10 passes, the 1977 legislature can enact any legislation needed to obtain federal funding and restore any part of S.B. 100 which might have merit.
11. The goals and guidelines imposed by LCDC have indirectly resulted in economic hardships, for instance:
 - a) The minimum limit on farm sizes benefits only the wealthy few who can afford large size acreage;
 - b) The costs of complying with land use regulations are squeezing out the small developer and driving up the price of construction;
 - c) Urban containment boundaries cause an artificial scarcity of land for development, thus increasing the price of urban land.
12. S.B. 100 and LCDC do not just require planning, they impose regulations.
13. LCDC has excessive power and insufficient checks and balances. For instance:
 - a) It can impose a plan on any piece of land in Oregon and force compliance with that plan; and
 - b) By having both rule-making and appellate powers LCDC can decide in favor of itself.
14. City folk, environmentalists and "no growth" advocates use the goal of preserving prime farmland to disguise their real goal, which is to protect open space and restrict new development. In doing so, they are imposing unfair land use restrictions on farmers and developers.
15. There is no provision in S.B. 100 or by LCDC for compensation to owners for imposed restrictions on the use of their land, whether by downzoning, freezing land for agricultural use, drawing urban boundary lines, or otherwise. Planning can result in a cavalier attitude toward the traditional rights of the landowners to use their land.
16. We cannot afford very much land use planning and regulation and still keep a free enterprise, free marketplace, and self-regulating system. Persuasion, not coercion, should be used when making planning decisions. S.B. 100 and LCDC help to squelch the dynamism, initiative, ingenuity and flexibility of the private sector.

IV. ARGUMENTS PRESENTED AGAINST THE MEASURE

1. Oregon's land is disappearing beneath bulldozers and pavement. Almost everyone agrees that some land use planning is necessary. Some local jurisdictions just will not effectively plan without some prodding.
2. Proper planning will generate substantial economies for Oregon and its citizens and have favorable benefits related to noise, pollution, and other aspects of livability.
3. Substantial planning is needed quickly in some critical areas, such as the beaches and suburbs, before haphazard, ill-conceived, and irreversible development occurs.
4. LCDC can coordinate land use plans between adjacent local jurisdictions to the extent other agencies cannot. LCDC can act as an arbiter of disputes between neighboring jurisdictions.
5. LCDC can act as an appellate body with some expertise in disputes between public bodies, and private owners, and public interest groups.
6. LCDC can oversee state grants for local planning. A state agency such as LCDC is necessary in order to be eligible for some federal planning grants.
7. LCDC is responsible to the public, because members are appointed by the governor and must submit monthly reports to a legislative committee.
8. A statewide agency, such as LCDC, can be very helpful in defining, evolving and changing specific minimum planning standards.
9. S.B. 100 and LCDC provide a mechanism to minimize land exploitation.
10. Passage of the ballot measure would result in some uncertainties and gaps in the law.
11. LCDC has not abused its power. S.B. 100 and LCDC are new, and the time to test its worth has not been adequate.
12. LCDC has not been given sufficient funds by the legislature to do its assigned job.
13. All of S.B. 100 and LCDC should not be cast out just because some provisions of S.B. 100 or LCDC are weak or undesirable. If LCDC becomes too strong or insensitive, the legislature and governor could remedy the situation promptly.
14. Oregon needs to preserve its prime agricultural and forest lands to retain its economic base and employment opportunities.

V. DISCUSSION

Motivation Behind Introduction of State Measure No. 10

It appears that there are *two main concerns* which have prompted the sponsors of State Measure No. 10 to question the need for and desirability of S.B. 100 and LCDC. The first of these involves an individual's right to do with his property as he sees fit. The proponents of Measure No. 10 argue that the individual landowner can and will make better use of his land than an agency which does not understand its value. The proponents also argue that privately-held rural land will be prevented from development. Many people will not be able to realize the economic gain from their land due to the intrusion of land-use planning which is not based upon economic forces.

The second concern relates to a basic fear of increasing government regulation. LCDC is in its infancy. The proponents of State Measure No. 10 fear the potential power of LCDC and see it as yet another layer of government bureaucracy and red tape.

Discussion of Arguments For and Against State Measure No. 10

Your Committee believes that coordinated planning is a necessity, that it should be done at the most local level, and that S.B. 100 is consistent with this philosophy. Planning at local levels is the best way to make sure plans are responsive to local situations and are changed as conditions change.

S.B. 100 provides for planning to be done by the 276 cities and counties in Oregon. Counties are charged with coordination responsibility within their jurisdictions. S.B. 100

brought about LCDC which determined, after its numerous citizen involvement hearings, that the people of Oregon want to preserve and maintain certain of their natural and economic resources. The ideas expressed in these hearings helped form the basis for the fifteen goals and guidelines (including the Willamette River Greenway Plan) adopted by LCDC. With consistent interpretation and implementation of these goals and guidelines, coordinated planning can be achieved. Your Committee believes it unrealistic to expect local communities always to prepare land use plans which are in the best interest of all the people of the State of Oregon without some form of statewide coordination and assistance. The legislature gave LCDC both the authority and the means to require local comprehensive planning in compliance with statewide goals and guidelines.

LCDC has become the scapegoat for many people adversely affected by planning decisions. Partly, this is because the LCDC approach is still so new that there has not been enough time for most people outside the planning fraternity to learn what S.B. 100 really provides for. Certain misconceptions exist:

Misconception	Response
1. That LCDC prepares comprehensive plans.	LCDC may do so if the local planning body fails to do so.
2. That LCDC issues building permits and/or implements local zoning ordinances.	Only local governments have this power; LCDC does not.
3. That LCDC controls local land uses on specific pieces of property.	This authority exists only in limited situations having broader areas of significance.

Effects of State Measure No. 10

If State Measure No. 10 is approved by the voters land use planning will suffer a major setback. S.B. 100 will be repealed and LCDC with its statewide coordination of plans and its appellate process will be abolished. Some people think that all local comprehensive planning will cease. This will not happen. In the absence of LCDC, the state and federal governments would continue to do planning through other agencies, such as CRAG, DEQ, EPA, U.S. Forest Service, Bureau of Land Management, and the state and federal departments of transportation. Also, the great number of local governments would continue to do their planning and local comprehensive plans now in effect would remain in effect.

Your Committee was informed that some federal funds now channelled through LCDC could be disrupted or terminated in the absence of a statewide planning agency such as LCDC. For the present biennium, these federal funds are budgeted to be \$1.7 million.

VI. CONCLUSIONS

Your Committee concludes that coordinated land use planning is a necessity and that State Measure No. 10 should be rejected. However, to make S.B. 100 more acceptable and workable, the legislature should make a special review effort with particular attention to:

1. Enough resentment has accumulated from the issue of compensation of landowners for property value losses due to land use restriction, that the time has come for the legislature to solve this problem, as provided in S.B. 100.
2. The taxpayer should be informed how his planning dollars are being spent at all levels of government, and what benefits accrue from these expenditures. The public can then determine whether these costs are justified.
3. More attention by the "planning establishment" should be given to LCDC's Goal Number 9, "Economy of the State," especially to the depressing effect that over-emphasis on preservation of agricultural and recreational lands could have on that economy.

VII. RECOMMENDATION

Your Committee unanimously recommends a "NO" vote on State Measure No. 10 on November 2, 1976.

Respectfully submitted,

Pauline Anderson

A. B. Herman

Michael C. Kaye

Gary N. Pennington

William N. Stiles

Don A. Wrenn

William K. Blount, *Chairman*

Approved by the Research Board October 7, 1976 for transmittal to the Board of Governors. Received by the Board of Governors October 13, 1976 and ordered published and distributed to the membership for consideration and action October 29, 1976.

The Committee:

Pauline Anderson, elementary education teacher, on leave

A. B. Herman, businessman, President, Port Services Co.

Michael C. Kaye, independent writer, researcher and consultant

Gary N. Pennington, Tax Accountant, Peat, Marwick, Mitchell & Co.

William N. Stiles, Attorney, Sussman, Shank, Wapnick & Caplan

Don A. Wrenn, Stock Broker, Vice President, Herron Northwest

William K. Blount, Investment Advisor, Vice President, Blyth Eastman Dillon & Co., Inc.

APPENDIX I

Witnesses before City Club Committee on State Measure No. 10:

Date

8-17-76	Clif Everett	Geologist; Chairman, Committee to Restore Local Control of Planning (sponsors of the measure)
8-19-76	Henry Richmond	1,000 Friends of Oregon
8-20-76	Steven R. Schell	Attorney; former LCDC member
8-23-76	David A. Cook	Manager, Columbia Custom Homes
8-24-76	Donald Drake	Real Estate Developer, Builder, Lucke, Drake, Van Houten & Co.
8-26-76	Arnold M. Cogan	Public affairs consultant; former LCDC Director
9- 1-76	Steve Hawes	Attorney; Associated Oregon Industries
9- 7-76	James R. Moore	Attorney, former Mayor of Beaverton
9- 8-76	William J. Moshofsky	Vice President, Georgia-Pacific Corp.
9- 9-76	Lynn Engdahl	Executive Director, Western Environmental Trade Association
9-16-76	Robert Tobin	Bureau of Planning, City of Portland

APPENDIX II**Reference Material:**

- (a) "Oregon Land Use Legislation, Vol. 1 ANALYSIS," by local Government Relations Division Executive Department, State of Oregon and the Oregon State University Extension Service, 1973
- (b) "Oregon Land Use Legislation, Vol. II Enacted Bills," by local Government Relations Division Executive Department, State of Oregon and the Oregon State University Extension Service, 1973
- (c) "Oregon Land Conservation & Development Commission; Statewide Planning Goals & Guidelines," Provides an introduction to the goals and guidelines of LCDC, January 1, 1975.
- (d) "Willamette River Greenway Program," by LCDC covering the order adopting the preliminary plan and statewide planning goal #15, December 6, 1975
- (e) "The Changing Role of Government in the Subdivision & Partitioning of Land in Oregon," by Bureau of Governmental Research and Service, University of Oregon, January 1975
- (f) Pacific Northwest Regional Planning—A Review by Roy F. Bessey, State of Washington Division of Power Resources, 1963 (Concerns Development of Water and Columbia Basin)
- (g) "Vested Rights & Land Use Development," 54 *Oregon Law Review* 103, 1975
- (h) "Oregon's New State Land Use Planning Act—Two Views," 54 *Oregon Law Review* 203, 1975
- (i) "Regional Land Use Policy: Synthesizing Public Objectives" by Willamette Basin Land Use Study, Oregon Department of Commerce, 1954
- (j) "Goals for a Livable Oregon; an Action Partnership for the '70's," by the Executive Department (State of Oregon), 1970
- (k) "Federal Land Use Planning," by Lewis & Clark Law School - Northwestern School of Law, 1975, discussion of "The Vermont Experience"

REPORT ON
STATE MEASURE NO. 12

**PROPOSED REPEAL OF COMPREHENSIVE AUTHORITY FOR
INTERGOVERNMENTAL COOPERATIVE AGREEMENTS AND
REGIONAL COUNCILS OF GOVERNMENT ("COGS") AND
ENABLING STATUTE FOR COLUMBIA REGION ASSOCIATION
OF GOVERNMENTS ("CRAG")**

Ballot Title: Repeals Intergovernmental Cooperation, Planning District Statutes.

Purpose: This measure proposes repeal of ORS 190.003 to 190.110, which authorize local governments, and the state, to enter into agreements with each other or otherwise to cooperate in performances of any of their functions and activities; and also repeal of ORS 197.705 to 197.795, which provide for creation of a regional planning agency for the Clackamas-Washington-Multnomah County metropolitan area, and specify its organization, duties and powers.

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

In order effectively to analyze and evaluate Measure No. 12, a clear distinction must be made at the outset between three essentially different types of intergovernmental relationships in Oregon which would be affected, each in a different way, by passage of the Measure:

1. *Special-purpose intergovernmental agreements*—consisting of contractual relationships entered into by local governments throughout the state, between themselves or with state or federal agencies, providing for the joint performance or delegation of virtually any specific governmental function, including, for example, joint police or fire protection, joint purchasing of supplies or equipment, sharing of personnel or public facilities, or joint performance of administrative duties.

2. *Voluntary regional councils of governments* ("COGS")—permanent associations of the local governments of various regions of the state, formed for the purpose of addressing, planning for and attempting to resolve in a coordinated manner the many governmental problems which transcend the physical boundaries of the members and affect the region as a whole. They are voluntary both in terms of membership and in terms of their legal incapacity to enforce compliance with their decisions.

3. *Columbia Region Association of Governments* ("CRAG")—a kind of "second-generation COG," this association of the city and county governments of Washington, Clackamas and Multnomah Counties is the only mandatory COG in the state, both in terms of required membership and in terms of having the legal capacity to enforce its decisions.

The impact of the Measure's passage on each of these three types of intergovernmental relationships represents an issue of major importance in itself, and the inclusion of these particular issues in one ballot measure raises several dilemmas.

In light of the number, complexity, variety and disparity of purpose of the intergovernmental relationships involved, a major purpose of the Report is to advise City Club members that the future of CRAG is not the only issue presented by the Measure. It seeks to identify the other two issues as clearly as possible and to provide each of the three issues

with a roughly equivalent degree of analysis. The Report is thus somewhat fragmented in structure, and its analysis of the considerations to be taken into account on each issue is necessarily summary in nature.

The report should not be viewed as presenting a definitive treatment of any one of the three major issues raised by Measure No. 12. Its emphasis is upon providing a sufficient factual basis for making an informed judgment about a ballot measure having unusually broad, and perhaps generally unexpected, implications.

A list of persons interviewed by your Committee and references consulted is located in Appendices A and B.

II. BACKGROUND

A. History and Practical Implementation of Statutes Proposed For Repeal

1. ORS 190.003 to 190.110

a. In general

ORS 190.003 to 190.110 would be repealed by passage of Measure No. 12. These statutes contain a simple declaration of the basic state policy which they are intended to carry out:

"In the interest of furthering economy and efficiency in local government, inter-governmental cooperation is declared a matter of statewide concern."

(ORS 190.007)

They set forth in general language the extent to which a "unit of local government" may enter into a written agreement with one or more other units of local government for the performance of any or all functions and activities that any party to the agreement has the authority to perform. A "unit of local government" is broadly defined as including a county, city, special district, "or other public corporation, commission, authority or entity organized and existing under statute or city or county charter."

Such agreements may provide for joint performance or delegation of a particular governmental function or activity in several alternative ways: by a consolidated department, by joint provision of administrative officers, by joint ownership, construction, lease or operation of facilities or equipment, by one governmental unit's contracting with another for the performance of a particular service delivery function—or by a combination of any of these methods.

Provision is also made for cooperation, by formal agreement or otherwise, between a unit, or units, of local government and any state agency of Oregon or another state, the federal government or any federal agency.

These statutes spell out several specific requirements for the contents of an intergovernmental agreement. In addition to specifying the functions or activities to be performed, each agreement must, for instance, apportion among the participating governmental units the responsibility for payment of expenses, apportion any revenues incurred in or generated by the joint function and make specific provisions for any property or personnel transfers which may be involved.

ORS 190.003 to 190.110 are the direct descendants of statutes originally enacted in 1933, authorizing Oregon's local governments to enter intergovernmental agreements. Numerous amendments since then have expanded and clarified the scope of this contractual authority. These statutes have remained unchanged since 1967 when the legislature added a liberal construction clause, the standardized procedural provisions and clarified the available methods for joint performance of governmental functions.

ORS 190.003 to 190.110, which have no bearing at all on CRAG, have been the primary authority for two distinct types of intergovernmental relationships—special purpose intergovernmental agreements and the state's system of voluntary COGS, each of which is discussed in the immediately following sections. Sections III.A. and III.B. of the Report consider the effects of repeal of ORS 190.003 to 190.110 on these two types of relationships.

b. Special intergovernmental agreements

ORS 190.003 to 190.110 provide the only *comprehensive* statutory authority for local units of government to contract and delegate functions between each other.

In addition, there are approximately 75 to 100 separate statutes scattered throughout Oregon law which specifically authorize various kinds of inter-governmental cooperation. The enabling statutes for cities, counties, water districts, sanitary districts, fire districts, school districts, park and recreation districts, etc., often contain grants of authority for those units of government to enter specific kinds of agreements with other units of government. For example, school districts are permitted to share personnel and services, governmental units may jointly own and operate facilities, water districts may contract with districts for water supply, fire districts may contract for fire protection, counties may share ownership and maintenance of bridges, etc. Generalized authority for such agreements is made necessary by the multitudes of special and general purpose governmental units in Oregon and the impossibility of providing in advance for the myriad situations in which intergovernmental cooperation is necessary.

Such special purpose statutes appear to authorize specific inter-governmental contracts, but not the delegation of governmental functions. Home rule county and municipal corporation charters also contain general statements of authority for inter-governmental cooperation. Those specific statutes and charters would not be affected by repeal of ORS 190.003 to 190.110.

c. Voluntary regional councils of governments ("COGS")

In Oregon there are eleven voluntary regional associations of city, county and special district governments, known as Councils of Governments ("COGS"), and one Economic Development District. They have been created in various regions throughout the state pursuant to enabling legislation contained in ORS 190.003 to 190.110, which are proposed for repeal. All of the COGs would be affected by repeal, as discussed in Section III.A. of the report.

The COGs exist in order to develop and coordinate regional solutions to problems which extend beyond local political boundaries. Regional policies are determined by boards of directors comprised of elected officials from member governments. Decisions are not binding on member governments without the affected member's approval. COGs commonly have staffs, materials and equipment, which are financed by contributions of member local governments and by grants from federal and state agencies.

COGs normally provide planning and technical assistance to their member governments and act as regional clearing-houses for several federal programs. Their functions vary according to the desires and needs of their member governments. Many are active in the creation and administration of programs such as care for the aged, waste disposal, criminal justice planning, transportation planning, regional land use planning, manpower training and water quality management planning. They are involved in obtaining funds for these and other programs of regional impact. They provide valuable services and obtain funds for units of government within their districts which would otherwise be unable to provide these functions for themselves.

Two of the state's more well-established COGs are in the Salem and Eugene regions. The Salem area's Mid-Willamette Valley Council of Governments is a voluntary association of 30 local governments in Marion, Polk and Yamhill counties, and was formed in 1967 as an outgrowth of regional cooperative efforts beginning in 1957. In fiscal year 1976-77 it is responsible for expending or channeling almost \$9,000,000 of local, state and federal funds. In the Eugene area, the Lane Council of Governments was formed in 1945, pursuant to earlier versions of the statutes which would be repealed by Measure No. 12, and was one of the first such councils in the country. It has 25 member governments and in fiscal year 1976-77 will be responsible for expending or channeling approximately \$1,650,000 in local, state and federal funds.

2. ORS 197.705—Columbia Region Association of Governments (CRAG)

The sole purpose of ORS 197.705 to 197.795 is authorization of a "regional planning district" for the Portland Metropolitan Area known as The Columbia Region Association of Governments or "CRAG." Enactment of these statutes in 1973 resulted in reorganizing and strengthening an already-existing COG which was also known as "CRAG" and consisted of a voluntary association of four counties and fourteen cities.

The "old CRAG" was created in 1966 as a result of recommendations by the Portland Metropolitan Study Commission. Its purpose was to identify regional problems and to prepare advisory regional plans. In 1967 it was designated by the Bureau of the Budget as the regional clearing house for federal grants, and HUD designated CRAG as the regional planning body for certain metropolitan planning funds. Financed by a combination of federal grants and a voluntary dues structure, the old CRAG became involved with regional planning for water supply and sewage disposal, streets and highways, mass transit, parks and open space and comprehensive land use.

The effectiveness of the old CRAG was impeded by an unreliable financial structure and the fact that its membership and compliance by the members with its regional plans were both voluntary. One result was the essentially patchwork nature of its regional comprehensive plan. The old CRAG did not have the power to resolve conflicts between the plans of its member governments, and it was heavily criticized for passively sanctioning continued urban sprawl.

CRAG's purposes, responsibilities and powers were clarified and significantly strengthened by the 1973 enactment of ORS 197.705 to 197.795 which Measure No. 12 seeks to repeal. These statutes mandated membership for Clackamas, Washington and Multnomah Counties as well as for all municipalities within these counties ("general members") and provided for voluntary associate membership, presently consisting of Clark County, Vancouver and Camas, in Washington, and Columbia City, Scappoose and St. Helens ("general associate members"), and Port of Portland, Tri-Met and the State of Oregon ("associate members"). The 1973 legislation also provided for mandatory internal assessment of members and granted CRAG the power to implement and enforce the regional plans which it develops and duly adopts.

The statutes in question resulted in the conversion of CRAG from a "voluntary COG" to a "mandatory COG"—the only one in the state and one of very few in the nation. In fact, there is probably no regional COG of comparable strength in the United States.

CRAG's power is vested, first, in its General Assembly, which is composed of representatives drawn from the governing board or council (e.g. a board of county commissioners or a city council) of each general and general associate member and a representative designated by each associate member. Each member, regardless of classification, has one vote; and each general and general associate member has an additional number of votes determined by the relative size of its population.

The General Assembly is responsible for approving assessments of membership dues and for approving the annual budget and operational program.

A Board of Directors is responsible for the bulk of CRAG's policy-making. Its membership consists of one director from each county (appointed directly by that county's commissioners); one director from the City of Portland (appointed directly by the City Council); one director from each county (appointed by a caucus of the mayors of all the cities, except Portland, in that county); and one director from each associate member. Voting on Board matters is also weighted by a population-based formula.

The CRAG Board appoints an executive director who has general management powers and is responsible for preparation of the annual program and budget. At present, he is authorized a paid staff of 61.5 positions, of which 58 are now filled.

The Human Services department of CRAG administers funds for programs in Aging, Criminal Justice and Social Services, contracting with delivery agencies for the actual conduct of these programs. Human Services has seven employees and, in the fiscal 1976-1977 budget accounts for 10 percent, or \$239,343, of CRAG costs. Most of this money

is provided by federal grants and is passed through to the local service-delivery agencies subject to CRAG monitoring responsibility.

CRAG's Environmental Services division is concerned with sewer systems, transportation, water resources and land use planning. It utilizes 33 of CRAG's paid employee positions. The 1976-1977 budget allots 60 percent, or \$1,370,148, of total CRAG expenditures to Environmental Services. Part of this figure also represents pass-through funding of local service-delivery agencies.

CRAG's remaining staff and budget (17 positions and 30 percent, or \$780,361) are devoted to Management Services Department which is responsible for such matters as grant-consultation, accounting and management.

CRAG's total 1976-77 budget is \$2,371,091, of which \$1,316,288 constitutes federal grants and \$352,284 state-managed grants. \$852,792 is for payment to local agencies for performance of contracted services, which is primarily derived from federal grants.

CRAG revenues consist of \$516,519 in membership dues and \$186,000 from miscellaneous other sources. CRAG has no tax base, and its cost is not directly reflected in taxes paid by area-wide taxpayers. However, each member government's dues, assessed on a relative population basis (\$151,930 for the City of Portland, for instance), ultimately are derived from the local taxes paid by the citizens of that jurisdiction.

CRAG has adopted (in June 1975) an Interim Transportation Plan. This plan includes greater emphasis on mass transit relative to the private automobile. It designates four major transportation corridors, based on existing facilities, leading into the urban core. Further corridor studies continue, largely financed by federal grants.

Most of the controversy surrounding CRAG has revolved around its land-use planning powers. CRAG has the statutory power and duty to adopt regional land-use goals and objectives, to prepare a comprehensive regional plan, and to designate and regulate land use relative to regionally significant areas and activities. In fact, CRAG has taken only preliminary steps toward implementation of these powers, much less taking any step toward enforcement. Indeed, there is little to enforce so far.

CRAG has adopted procedural rules comprehending the need for citizen participation, political unit responsibility and private party interest as a prelude to exercise of any of its substantive land-use planning powers.

After a false start (culminating in a determination by the CRAG Board that the staff's *The Columbia-Willamette Region Comprehensive Plan: Discussion Draft (October, 1974)* represented a too-far/too-fast attempt at a complete regional plan), CRAG has adopted a more gradual, incremental approach to the process of formulating and adopting a plan. In 1975 it organized a Goals and Objectives Task Force, drawing its members from the CRAG Citizen Advisory Committee and the Community Development and Transportation technical advisory committees, which has produced several discussion drafts of *CRAG Goals and Objectives*, a broad formulation of regional goals and objectives.

A similar task force has produced a Land Use Framework Plan, consisting of a "framework" map and text designed to express with broad strokes the optimal land-use pattern for the region over the next twenty years. It seeks to categorize all land within the area as for either "urban," "rural" or "natural resource" (including land for agricultural use).

The Framework Plan Task Force has achieved consensus with local planners as to all but a handful of controversial land areas. Draft III of both the Goals and Objectives and the Framework Plan has been under review and discussion by the CRAG Board and is believed near adoption. The most controversial single element of the Framework Plan has been, and continues to be, the drawing of an "urban growth boundary" for the region.

CRAG's land-use planning responsibility on a regional basis is somewhat analogous to that of the Land Conservation and Development Commission on a statewide basis. CRAG is charged with identifying and protecting areas and interests of regional significance and assuring that the land use plans of its member cities and counties do not conflict with regional goals.

Aside from the fact that CRAG's regional plan, when adopted, must not conflict with LCDC's statewide goals and guidelines, there is no interrelationship between these two bodies. If Ballot Measure No. 10 carries, abolishing LCDC, and CRAG survives, CRAG's plan would simply be the ultimately controlling land use document for the region. If CRAG is abolished, and LCDC survives, local jurisdictions would continue to be required to comply with the State goals and guidelines.

B. Origin and Apparent Purpose of Measure No. 12

Measure No. 12 was placed on the November ballot largely through the efforts of the "Committee to Restore Local Control of Land Planning." Originating in Lane County, the same Committee has placed Measure No. 10 (proposing repeal of LCDC) on the ballot.

The campaigns for passage of these two measures have emphasized that their common purpose is "to give the people of Oregon the opportunity to reject control by appointed bureaucrats and restore authority to local, elected people," as stated by the sponsoring committee.

And, according to that Committee, the specific purpose of Measure No. 12 is to eliminate CRAG and the voluntary COGs, characterizing them as "'middle-layer' bureaucracies which now dominate our local elected people."

III. PROJECTED EFFECT OF PASSAGE OF MEASURE NO. 12

A. Repeal of ORS 190.003 to 190.110

Repeal of these statutory provisions would have a multitude of legal and political impacts, many of which would be unrelated. First, with repeal of the only explicit statutory authority for the existence of voluntary COGs, the future of such organizations would be uncertain. Second, with repeal of the only *comprehensive* grant of authority for local governmental units to contract with each other, the effect on existing and future inter-governmental contracts for service-delivery and function-sharing would be uncertain.

Voluntary COGs now derive their legal authority from statutes which are proposed for repeal. They would not continue to exist in their present form if the measure passes. From a *legal* standpoint, it may be possible even after repeal for voluntary governmental groups to derive authority for existence from general and home rule powers of member cities and counties or to reconstitute themselves as non-profit corporations, economic development districts or in some form of voluntary organization.

The Oregon Attorney General has concluded that voluntary COGs would cease to exist after repeal of ORS 190.003 to 190.110. Alternate inter-governmental organizations would not be assured of legal validity and, in any event, could not continue all of the functions presently allowed to voluntary councils of governments. ORS 190.003 to 190.110 have been included in the ballot measure precisely because its proponents seek to abolish voluntary COGs and the functions they perform. As a political matter, repeal of those statutes would make it unlikely that many local governments could continue in alternate, similar associations.

Without the continued existence of voluntary councils of government, there would be termination or interruption throughout the state of the following kinds of activities now occurring at regional levels: criminal justice planning, transportation planning, regional comprehensive land use planning and coordination, federal program solicitation and administration, manpower training, planning for the aging, analysis of regional housing needs, health care planning and service programs, sewage collection and treatment, water quality management planning and regional library services. Local governments and the legislature would be required to devise different means for cooperative legal approaches to problems which transcend local political boundaries.

The effect of repeal on the flow of various types of federal funds is discussed in more detail in Section III.C. because it is equally applicable to both COGs and CRAG.

ORS 190.003 to 190.110 authorize many agreements in addition to those which form voluntary COGs. There presently is not a definite list of which special purpose inter-

governmental agreements are permitted by statutes proposed for repeal, and which are permitted by other specific special purpose statutes. The measure would not explicitly require termination of any agreements now in effect although some existing contracts formed under the authority of such statutes may be impaired.

ORS 190.003 to 190.110 appear to constitute the only general authority by which one unit of government may delegate functions to another unit of government. The future ability of local governments to delegate functions and to enter contracts not permitted by the separate specific statutes will be uncertain in the event the measure passes. The Oregon Attorney General has concluded that,

"... an agreement relating to water service, police protection, land use planning, parks, or any other local government concern, will continue unaffected or could be entered into in future notwithstanding passage of measure 12, *unless* it provides for assumption by one government, or by a separately created joint agency, of functions which that government or agency lacks statutory authority to perform." [— Op. Att'y Gen. — (1976); September 23, 1976 letter from Attorney General Lee Johnson to State Representative Ed Lindquist, Opinion Request OP 3687]

It is likely that most special purpose inter-governmental contracts would still be authorized by city or county charter authority or by the approximately 75 to 100 statutes which authorize specific kinds of inter-governmental agreements. It is almost impossible now, however, to determine which specific inter-governmental agreements would not be authorized in the absence of the general grant of authority contained in ORS 190.003 to 190.110, and which aspects of existing contracts may be beyond the scope of authority granted by charters or specific statutes.

B. Repeal of ORS 197.705 to 197.795 (CRAG)

The repeal of ORS 197.705 to 197.795 would remove the authority of CRAG (the only regional planning district contemplated by these statutes) to assess dues, adopt goals and guidelines for comprehensive regional planning, accept and administer federal or state program grants, or otherwise exercise public power. CRAG's status as a public employer and its entitlement to tax refunds would cease to exist, as would its statutory authority to sue and be sued in its own name.

In short, CRAG would cease to exist for all public purposes, and the Portland Metropolitan Area would be without any regional planning body—even a voluntary regional forum, since passage of the Measure would also repeal ORS 190.003 to 190.110 and render doubtful the authority of metropolitan area governments to re-establish the type of voluntary COG which existed prior to the creation of CRAG.

Measure No. 12 contains no dissolution or "wrap-up" provisions. Thus, the effect of repeal upon the status and performance of CRAG's existing contractual obligations, public and private, is unknown. Likewise, the effect upon CRAG's authority to receive and disburse federal and state funds, already approved for ongoing programs, is a subject of confusing speculation at this writing. Nor does the Measure (or any known statute or general principle of law) indicate the manner in which CRAG's assets, including receivables, should be disposed of.

Perhaps the most dramatic immediate effect of repeal will be the interruption of federal funding for programs administered in the metropolitan area by CRAG. This problem is discussed separately in the following section because it applies equally to the repeal of authority for both CRAG and the state's voluntary COGs.

C. Impact on Availability of Federal Funds

Many federal grants to local governments depend upon the existence of regional planning agencies as eligible applicants. Voluntary COGs and CRAG serve such functions and administer and act as clearinghouses for federal programs and funds.

According to the Northwest Federal Regional Council,* passage of Measure No. 12 would cause the loss of federal funds, due to the lack of eligible recipients, from the following programs: Areawide Water Quality Management Planning (EPA Section 208); National Highway Traffic Safety Administration program grants; parts B and C of the Law Enforcement Assistance Administration block grants; HUD Low Rent Public Housing Section 8 bonus units; the 5 percent bonus provisions for CETA programs; and the U.S. Geological Survey cooperative studies with the Rogue Valley COG and CRAG. There is also a potential loss of EPA construction grant money under the Federal Water Pollution Control Act and certain highway trust funds to areas lacking a certified Metropolitan Planning Organization (MPO).

The role of COGs and CRAG in administering many other federal programs would need to be transferred to state agencies or non-profit corporations. Such programs include: Public Water System Supervision Program grants (EPA), air pollution control program grants (EPA), transportation control programs (FHWA), airport planning and developing grants (FAA), program for the aging (HEW), HUD 701 planning grants, the EDA planning grants, the EDA planning programs, CETA programs, and the Pacific Northwest River Basins Commission projects.

In addition, passage of the measure could certainly disrupt many other federal programs and cause at least a temporary halt to the flow of federal funds. Smaller communities, which lack sufficient staffs to monitor and seek federal grants without a COG or CRAG, would be severely disadvantaged. Without COGs, some programs, such as the aging programs under the Older Americans Act, would be made available only to large metropolitan areas. Without COGs or CRAG, some significant programs, such as those within the Urban Mass Transportation Administration, would be jeopardized in the Portland, Salem and Eugene areas, where CRAG, the Mid-Willamette Valley Council of Governments and the Lane Council of Governments respectively are designated as eligible recipients. The loss of these bodies would result in the loss of some federal assistance at least until alternate regional forums are created or recognized. Whether such alternate bodies can be created at all without the authority of ORS 190.003 to 190.110, or equivalent statutory authority, is doubtful. The Committee was unable to obtain any meaningful dollar estimate of federal assistance which would be delayed or terminated by passage of State Measure No. 12.

IV. ARGUMENTS PRESENTED IN FAVOR OF PASSAGE

1. CRAG as presently constituted is not working well. Its paid staff is frustrated by lack of budget, vulnerability to political influence and by lack of real progress.
2. CRAG's constituency is composed of member governments rather than private citizens. Thus the people have no direct voice in establishing CRAG policy. Under these circumstances credibility is strained and accountability is lacking.
3. Citizen input under CRAG has been minimal, and many have expressed discouragement in their attempts to present testimony contrary to staff thinking. Environmental groups have had control over and the empathy of professional planners. Repeal is a necessary prerequisite to the establishment of a better balanced planning system.
4. CRAG has lost its credibility. If regional planning is to be public policy, then another more credible organization must be created.
5. CRAG and COGs have created a middle layer of government which modifies and in some cases removes authority from traditional political subdivisions such as counties and cities.
6. Regional planners deal on such broad principles and goals that they have little knowledge or understanding of the effect of their decisions on individual property or

*Letter to Governor Straub dated September 16, 1976, formally replying to the Governor's request for "information" on the impact (Measure No. 12) would have on federal programs."

neighborhoods. Passage of the ballot measure would restore a better sense of equity to individual cases.

7. Passage will cause planning to be more local in character.
8. Repeal would help reestablish the autonomy of local government.
9. Property ownership is inadequately considered by present CRAG statutes. Rights of property owners under this concept are no greater than those of non-property owning citizens.
10. The cost of land and construction has a direct relationship to the degree of planning and the consequent limiting of the supply of land resources. Passage would lessen this type inflation, which has added to the already high cost of housing and development.
11. CRAG and COGs impose unnecessary bureaucratic obstacles to development, which require higher development costs from attorneys' fees and delays. Most people lack the legal or financial resources to combat such bureaucracy.
12. Passage will cause a desirable legislative review of the entire concept of regional planning.
13. The need to abolish CRAG is so great that the loss of certain ORS 190 Statutes (intergovernmental cooperation) is of little comparable consequence. The legislature can replace any such needed authority in a more limited form.
14. Any interruption or loss of federal funds caused by passage would simplify government, reduce unnecessary costs and reduce federal controls which interfere with local self-determination.

V. ARGUMENTS PRESENTED AGAINST PASSAGE

1. The Measure is unfairly broad and confusing. It joins together unrelated issues and violates the Oregon Constitution's requirement that a law proposed by initiative petition "shall embrace one subject matter only and matters properly connected therewith." (Art. IV, Section 1(d), Ore. Const.)

2. The Measure represents a "bull-in-the-china-shop" approach which will have undesirable effects, predictable and unpredictable, beyond those sought by the proponents themselves.

3. Repeal of ORS 190.003-190.110 is ill-advised because it will:

a) result in substantial, but largely unpredictable, confusion as to the specific types and terms of intergovernmental agreements permitted by law, spawning uncertainty, costly litigation and administrative delay;

b) create a confusing tangle of bureaucratic red-tape, not cut it, since relationships between and among local governments will depend on particularized enactments or theoretical implied powers rather than on a general law;

c) leave in limbo the status of *existing* intergovernmental agreements for joint performance of many vital public services, since the Measure makes no provision for them;

d) abolish the rational, state-declared policy that intergovernmental cooperation be undertaken "in the interest of furthering economy and efficiency in local government";

e) remove all authority for a unit of local government to delegate the performance of administrative functions to another local government; and

f) remove the clear-cut procedure and uniform format for intergovernmental relationships, lessening, rather than enhancing, the accountability of local governments to their citizens for such relationships as will continue to be permitted.

4. The impact of the measure's passage is more drastic than any actual deficiency which the measure addresses:

a) Voluntary COGs throughout the state have implemented many valuable and locally-popular programs involving contractual commitments which would be destroyed or thrown into litigation.

b) Voluntary COGs provide an indispensable forum for discussion of regional problems and planning. Since their plans are not mandatory, CRAG-oriented support of the measure is not relevant to COGs.

c) Passage of the measure would cause at least a temporary halt to the flow of federal funds for a great variety of programs which must be administered by regional agencies of the type which would be repealed, and would result in transfer of administrative responsibility for some federal programs from locally-elected officials to state agencies or private organizations.

d) The permanent loss of federal regional monies for some programs would be substantial.

5. With regard to the effect of repeal of ORS 197.705 to 197.795 (CRAG), the measure is unmerited:

a) A system of regional planning bodies of some sort is indispensable to the future social and economic well-being of Oregon. In the Portland area, CRAG can fill this need as a forum for cooperation and negotiation; to the extent that this process breaks down, CRAG's mandatory powers are appropriate to protect regional needs.

b) Passage of the measure would result in litigation and substantial losses to public programs operated under existing contracts with CRAG, since the measure makes no provision for the legal status of CRAG or its authority to dispense further money once the measure passes.

c) Elimination of CRAG would cause loss of federal funds and a temporary loss of funding in programs where an alternative regional body could be formed or designated. CRAG probably attracts more grant money for the benefit of metropolitan area residents than it costs areawide taxpayers.

d) Objections to CRAG's land use planning function are premature and largely center around one aspect of a plan which has not yet been either fully adopted or enforced.

e) CRAG has made significant progress toward adoption of a land use plan that will have the general support of its member jurisdictions.

f) In addition to land use planning functions, CRAG is performing valuable service in planning transportation and waste disposal systems, and administering regional programs, all of which are services worth the cost of CRAG to the voters.

g) CRAG is the only meaningful vehicle for control of premature, wasteful urbanization of rural lands in the Portland Metropolitan Area.

h) Legislative revision and refinement of CRAG is the only responsible reaction to criticisms of CRAG.

6. The voters should reaffirm, rather than disavow, the obvious and critical need to seek regional solutions for regional problems. Repeal of CRAG and COGs would interrupt the impetus toward, and would create a vacuum in, the solution of regional problems.

7. CRAG, and voluntary COGs, to the extent that they have land use planning coordination responsibilities, exercise those responsibilities as an expression of the needs and desires of the people of the region involved. Without them, such coordination responsibility must be on the state level, i.e., further removed from the locality affected.

VI. MAJORITY DISCUSSION

Whether or not Measure No. 12 is properly characterized as "unfair" or "unconstitutional" in its breadth, the structure of the Measure renders nearly impossible any clear test of voter opinion on any one of the three separate types of intergovernmental relationships involved.

The CRAG issue is of marginal, if any, immediate significance for voters on a statewide basis. For Portland Metropolitan Area voters, the CRAG issue is not only of great significance but is also a highly-publicized and controversial one. For all voters, including

those in the Portland area, the ORS 190.003 to 190.110 issues (special-purpose intergovernmental agreements and voluntary regional COGs) are of major significance, but of a relatively low-visibility, unpublicized nature. This is particularly true in the Portland area in the case of the voluntary COG issue. This area does not have a voluntary COG precisely because CRAG serves that function. Passage of the Measure based on an anti-CRAG vote in the area would not only eliminate COGs throughout the rest of the state but would eliminate the possibility that CRAG could at least be voluntarily replaced by a voluntary regional COG in the Portland Area.

Passage of the Measure would deliver no clear message to the state legislature. Would it mean "we don't want *any* regional cooperation and planning"? or "regional cooperation is all right, but not comprehensive planning"? or "voluntary regional planning is acceptable but mandatory planning is not"?

There does seem to be a strong possibility that if passed, the Measure will be challenged in court as unconstitutional on the grounds that it impermissibly embraces more than one subject matter. We express no opinion as to the likely outcome of any such litigation, but do point out this possibility as one more aspect of the needless confusion which the Measure's passage would generate.

The proponents of Measure No. 12 clearly could have put the CRAG issue before the voters separately from other issues having greater statewide significance and involving quite different considerations. Since they chose not to do so, and because we can find no basis whatsoever for viewing the CRAG issues as inherently more important than the statewide issues of voluntary COGs and special-purpose intergovernmental relationships, we feel that a responsibly-cast "yes" vote on this Measure should not be based upon dislike for or disaffection with CRAG. Support of the Measure must be based, therefore, on a finding of significant defects in this state's system of voluntary COGs and special-purpose intergovernmental agreements.

We simply cannot cite any meaningful arguments for repeal of comprehensive authority for these two types of intergovernmental agreements. Although there *may* be some justification for the "middle-layer bureaucracy" criticism in the case of CRAG, that argument just does not seem to apply to voluntary COGs, which have no authority to dictate anything to anybody. It makes even less sense in the case of special-purpose intergovernmental relationships.

We do not believe that the authority of local jurisdictions to voluntarily enter into cooperative arrangements with other jurisdictions amounts to the creation of a new level of government. Nor do we believe that such arrangements render locally-elected officials less accountable to their respective local constituencies. An elected local official is just as directly responsible to the people for having entered into an ill-advised intergovernmental agreement as he would be for poor performance of any of the other governmental duties of his office.

With increased economic growth and personal mobility, the need for effective regional cooperation and planning in performance of all types of governmental responsibilities is increasing dramatically. The failure of local governments to develop and implement regional solutions to such regional problems as transportation, air quality, land-use planning and sewer and water service, will result in a loss of control at the local level in favor of state and federal attempts at solving the same problems. A vivid example of this inevitable process is provided by the likelihood that many federal regional program funds will be administered at the state level in the event that our system of voluntary COGs is destroyed as a result of Measure No. 12's passage.

Oregon's voluntary COGs serve an important function in affording local governments a forum within which to at least try to cooperate in the identification and working out of regional problems that none of them can solve alone. Notwithstanding their inability to compel such cooperation and to require compliance with their plans and programs, they have made positive contributions to their respective regions.

The evolution of the voluntary COG concept into a mandatory regional planning body

for the state's largest metropolitan area, by enactment of the CRAG legislation in 1973, represented a major step forward in creating a structure capable of more effectively meeting and resolving regional problems. That CRAG's structure and performance have been controversial during its short life should not be surprising. CRAG is a nearly unique body and its every effort has been subject to scrutiny from every side. The complexity of its structure and organization probably makes it seem more "remote from the people" than it really is. Many persons interviewed by the Committee, proponents and opponents of the Measure alike, suggest some form or another of regional governing body directly elected by all voters within the CRAG region.

Some suggest that the CRAG staff tends to make planning decisions based on inadequate data. Others feel that CRAG has moved too slowly in implementing its new planning powers. Still others express fear over the extent to which those powers *might* be exercised. CRAG's "lack of sensitivity" to broad public input and "lack of credibility" with the public are also frequently mentioned.

All of these concerns about CRAG deserve and should undergo extensive legislative review. There is no doubt that CRAG can be improved. As would be the case with any recently conceived and operational body, there are bugs. We do not believe that these problems justify repeal of CRAG. They are more than offset by CRAG's accomplishments and can be effectively remedied legislatively.

VII. MAJORITY CONCLUSIONS

The majority is unanimous in concluding that Measure No. 12 is an unnecessarily indiscriminate attack upon three historically and functionally different approaches to dealing with regional problems. It is a basic, undeniable fact of our system of government that there are many local governmental problems which cannot be effectively and efficiently resolved by any one local jurisdiction. They must be resolved, if at all, by some form of cooperation between the affected jurisdictions. This fact cannot be denied. Cooperation between local governments in Oregon has been explicitly and comprehensively permitted for over forty years. The Measure can be supported only by the conclusion that none of the three major types of intergovernmental relationships developed in response to this need merits preservation.

The majority is unanimous in concluding that comprehensive authority for, and encouragement of, special-purpose intergovernmental relationships and voluntary COGs is reasonable, and perhaps vital, in the resolution of intergovernmental problems and ought to be continued.

A smaller majority of the Committee has also concluded that CRAG, both in structure and performance to date, represents a positive step in the direction of effective regional planning for the Portland Metropolitan Area. Its imperfections do not justify the wholesale repeal of its enabling statute. At least one, and perhaps two members of the majority feel that CRAG is inadequate to fulfill regional planning needs and that it has structural organizational flaws which will impede ultimate attainment of a satisfactory level of service to the area. They nonetheless vote with the majority because of Measure No. 12's potential for disruption of other legitimate and valuable intergovernmental relationships throughout the state. They also share the unanimous majority view that the resulting termination or interruption of federal funds for numerous social and economic programs, locally and statewide, requires defeat of the Measure.

VIII. MAJORITY RECOMMENDATION

The majority of your Committee recommends that the City Club oppose passage of State Measure No. 12 with a "No" vote in the general election on November 2, 1976.

Respectfully submitted,

Robert S. Ball

Dennis Hartman

Stephen R. Moore

Leslie Roberts

Durward E. Wright

William N. Gross, *Chairman*

For the Majority

IX. MINORITY DISCUSSION AND CONCLUSIONS

Planning is essential to contemporary social, environmental and economic life. The important questions before the public encompass (1) how we plan, (2) who shall plan, (3) how much force of law shall a plan carry? Early concepts of planning traditionally provided for local direction and were later supplemented by voluntary regional planning. During the past decade under the urging of the federal government and environmental interest groups, planning has become mandatory, centralized and bureaucratized. CRAG reflects all three of these directions. As a result, serious questions relating to social impact, economic costs, and property rights result from CRAG activities.

The arguments in favor of passage of Ballot Measure No. 12 (see Section IV of this report) provide convincing evidence that the interests of the citizenry of Oregon are best served by the passage of this Measure. The conclusion that CRAG in its present form is not producing the results which were anticipated is inescapable. CRAG is expensive, has produced little in the way of tangible outcome, has proven difficult to administer, is devoid of significant citizen involvement and access, and is not accountable to the electorate or the taxpayer. These defects have made it difficult to get the job done and we foresee no prospect for this practical need for "results" under the present statutes.

Ballot Measure No. 12 should be supported in order that the legislature be forced to redefine the direction of regional planning, thereby giving the citizens of Oregon more accessible, less arbitrary and less compelling planning while hopefully restoring the elective process to all policy levels. It is suggested that planning guidance be provided on a state wide level rather than continuing experiments with the regional government concepts.

There is no rationale for Oregonians to tolerate ill-conceived and poorly administered government. Some members of the majority have agreed that there are significant deficiencies in CRAG. There is some reticence to correct this situation based upon the fear that loss of certain ORS 190 statutes will impair other functions of state government. This particular argument is heard primarily from legally-oriented minds and government executives, but ultimately is only an excuse for toleration of an otherwise unacceptable performance.

This opinion takes strong recognition that property rights and political rights are inevitably connected and an abridgment of property rights is a lessening of our traditional freedom. It must be forcefully argued that in the struggle for quality of life freedom is as important as environment.

X. MINORITY RECOMMENDATIONS

It is therefore recommended that the City Club favor a "Yes" vote on Ballot Measure No. 12.

Respectfully submitted,

A. E. Brim

For the Minority

Approved by the Research Board October 7, 1976 for transmittal to the Board of Governors. Received by the Board of Governors October 14, 1976 and ordered published and distributed to the membership for consideration and action October 29, 1976.

APPENDIX A

The following persons were interviewed either by the Committee as a whole or by individual Committee members:

Lawrence Rice, Executive Director, CRAG
 E. Andrew Jordan, In-house legal counsel, CRAG
 James R. Sitzman, Natural Resources Director, CRAG
 Ronald C. Cease, Chairman, Tri-County Local Government Commission
 A. McKay Rich, Staff Director, Tri-County Local Government Commission
 Clifford Everett, Committee to Restore Local Control of Land Planning
 Ned Potter, Waterfront Owners Association
 Richard W. Norman, Member, Lake Oswego Planning Commission
 Winslow "Wink" Brooks, Director of Community Development, City of Tualatin; former CRAG staff member
 Bill Young, Administrator, State Intergovernmental Coordination Division; former CRAG Board Chairman, former Mayor of Beaverton
 Stephen Hawes, Associated Oregon Industries; formerly with Legislative Counsel's office
 Robert Stacey, 1,000 Friends of Oregon
 Wes Kvarston, Executive Director, Mid-Willamette Valley Council of Governments (Salem)
 David A. Cook, General Manager, Columbia Custom Homes
 Martin R. Crampton, Jr., Director of Planning and Development, Multnomah County
 Henry Richmond, 1,000 Friends of Oregon
 Steven R. Schell, former Vice-Chairman, LCDC
 James Mattis, Bureau of Governmental Research and Service, University of Oregon, Eugene
 Mark Huston, Economic Planner, East Central Council of Governments
 Denny Newell, Central Oregon Council of Governments

APPENDIX B

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REPORT ON
MEASURE NO. 26-15
PORT OF PORTLAND
SHIPYARD AND DRYDOCK BONDS

Ballot title: "Shall the Port of Portland, to remain competitive by constructing new shipyard facilities, issue up to \$84 million of general obligation bonds maturing within 30 years; and, after obtaining atuhority from the 1977 Oregon legislature, commit annual net revenues from the new facilities to pay annual principal and interest on the bonds and, to the extent revenues are insufficient, additionally secure the bonds by annual tax levy upon all taxable property in the Port district?"

To the Board of Governors,
The City Club of Portland:

I. HISTORY AND BACKGROUND

A. The Port of Portland and the Swan Island Ship Repair Yard

The Port of Portland, first formed by the Oregon legislature in 1891 for the purpose of dredging a clear channel between Portland and Astoria to assure safe navigation, was combined with the Commission of Public Docks in 1971 and today exists and operates as a municipal corporation. The object, purpose and occupation of the Port is to promote the maritime, shipping, aviation and industrial interests of the Portland metropolitan area, and to do any and all things which are requisite, necessary and convenient for the accomplishment of these ends. The Port owns and operates the Portland International Airport, the Troutdale and Hillsboro Airports, the Swan Island Ship Repair Yard, Rivergate Industrial District, five general marine cargo terminals, and approximately 8,000 acres of land.

The Port is governed by a nine-member Board of Commissioners. The Commissioners, appointed to four-year terms by the Governor, serve without pay and establish Port policies and programs in conjunction with the Executive Director of the Port and the Port staff.

The financial resources available to the Port include, in addition to revenues, its taxing authority and its authority to sell general obligation and revenue bonds. The Port may annually assess, levy and collect taxes upon all real and personal property within the Port district.¹ In 1975 the Port levied \$1.7 million in property taxes, and this levy can be escalated at a rate of six percent annually without voter approval. The general obligation bond auhority of the Port has been fixed by the legislature at \$3 million per year, and this limit can be exceeded only upon voter approval or further legislative action. In addition to these financing alternatives, the Port may, without the necessity of voter approval, issue and sell revenue bonds. The Port's 1975 audited financial statement discloses a present bonded indebtedness of \$36.3 million in general obligation bonds and \$86.8 million in revenue bonds. This indebtedness will be liquidated with revenues from existing marine facilities and taxes.

The Port first began operation of a dry dock in 1901 in response to demands of shipping and maritime interests. A second dock was built in 1923, and in 1950 the Port took over what had been the Kaiser Shipbuilding facilities during the war. These facilities were located on the northern tip of Swan Island, and the Port moved its two existing wooden dry docks from St. Johns and situated them next to the steel dock consructed by the Navy

¹The Port District consists of the counties of Clackamas, Multnomah and Washington.

during the war for the Kaiser shipbuilding project. The Port's original dry dock was retired in 1954, and in 1960 the Port's newest dock was constructed. This dock, measuring 661 feet in length and 114 feet in width, has the capacity to lift the largest vessel capable of passing through the Panama Canal ("Panamax" size).

The Port's ship repair yard facilities presently consist of three dry docks, approximately 3,500 feet of lay-up berths at which non-dry dock repair work is conducted, several cranes, and miscellaneous other facilities, all of which are owned by the Port and leased to private contractors on the basis of published tariffs. The approximately thirteen private contractors leasing the facilities do the actual ship repair work. Because of the unique public ownership of the facilities and the low tariffs charged by the Port for dock use, the Port and the contractors have been able to provide ship owners with repair contracts at prices significantly lower than those obtainable elsewhere. The Port for this reason has historically managed to capture approximately 30 percent of the Pacific Coast ship repair contracts despite its inland location and competition from approximately four other repair facilities on the west coast of comparable or greater capacity.

B. The Economic Effect of the Port's Marine Activities Upon the Community

As a result of the publicly-owned repair yard facilities being leased to private concerns, there are approximately 1,500 jobs in the public sector and 2,800 jobs in the private sector that are directly related to ship repair yard activities. The thirteen private contractors bidding for use of the facilities themselves employ 4,300 people, with an annual payroll of \$30 million. Their ship repair activities generate local expenditures of roughly \$30-35 million by non-local concerns and account for about one percent of the total employment in the tri-county area.

Beyond the ship repair yard itself, the Port's harbor facilities play a vital and significant role in the economic well-being of the region. Approximately 25 percent of Oregon's gross state product involves the import and export of various goods and commodities, and in the tri-county area alone, there are 345 firms, employing 45,000 people, engaged in this business. Marine and waterfront-related activities account for three percent of the total tri-county payroll.

C. The Need for a New, Larger Dry Dock

In order to maintain a competitive ship repair facility, contribute toward the continued viability of Portland as a world seaport, and to further stimulate the local economy by providing for greater employment, the Port proposes to expand the Swan Island Ship Repair Yard by adding a fourth dry dock capable of providing ship repair service to ships of the magnitude expected by the Port to develop during the next 20 years. These new vessels, consisting largely of tankers and liquified natural gas carriers, are expected to produce a ship repair market offering potential revenues five times greater than those resulting from the present market. Most of these vessels are in the "super tanker" category and are being built to accommodate the flow of crude oil from Alaska's Prudhoe Bay and liquid natural gas from other regions of Alaska and Indonesia. These ships, with a length of up to 1,100 feet and a beam of up to 173 feet, far surpass the capabilities of existing dry dock facilities on the west coast.

In addition to preserving the competitive position of the Swan Island Ship Repair Yard and assuring the continued viability of Portland as a world seaport, the Port feels that revenues from the new dry dock will make a significant contribution towards financing the capital improvements of the general harbor and marine cargo facilities which the Port has planned for the next 20 years.

D. The Port's New Dry Dock Proposal

In order to accomplish these objectives, the Port has presented for voter approval a proposed ship repair yard improvement program involving the construction of a fourth floating dry dock and three new lay-up berths at the present Swan Island site. The new dry dock, measuring 900 feet by 180 feet, and the new lay-up berths, each measuring

1,000 feet, will be capable of handling the largest of the next generation of tankers and cargo vessels.

The projected costs of the new dry dock and related repair facilities in 1976 dollars are:

New dry dock and three lay-up berths	\$35,000,000
Five new cranes	7,500,000
Construction	28,600,000
Engineering	3,700,000
	\$74,800,000
Inflation and Accelerated Costs	9,200,000
Total Bond Issue	\$84,000,000

The Port proposes to finance the construction of these new facilities through the sale of up to \$84 million in general obligation bonds to mature in 30 years. As with all general obligation bonds, these bonds would be secured by the value of all taxable real and personal property within the Port District—they would be, in effect, a lien upon all such property for 30 years. The Port cannot sell any of these bonds, however, unless it first obtains authorization from the legislature to pledge net revenues from the new facilities to pay the debt service² (principal and interest). The effect of this condition upon the sale of the bonds is that the taxpayers of the Port District will be responsible for the payment of debt service only in those years during which revenues from the dock are insufficient for this purpose. Any such contributions toward debt service will be in addition to the taxes otherwise paid to the Port pursuant to its annual taxing authority. Net revenues³ from the operation of the new dock in an amount sufficient to eliminate entirely the need for taxpayer contributions toward debt service are expected by the Port within three to five years. For those years in which net revenues exceed the amount of debt service, the excess may be used by the Port for any lawful Port purpose.

The ability of the proposed dry dock facilities to be self-sustaining is directly dependent upon the facilities' ability to generate net revenues in an amount sufficient to cover the debt service. Although the Port estimates that the maximum assessment against the taxpayers for debt service would be for a period of three to five years in a total amount of \$16.2 to \$27.3 million, it is important to note that the taxpayers remain ultimately responsible for the full \$84 million, plus interest, for the full 30-year period to whatever extent net revenues are insufficient to pay debt service.

II. ARGUMENTS PRESENTED IN FAVOR OF THE PROPOSAL

1. The Alaskan oil trade will result in super tanker traffic on the west coast and the proposed dry dock would allow the Port to service this market.

2. The proposed dry dock will maintain the competitive nature of the Port's existing ship repair facilities and will protect the existing ship repair related jobs.

3. The proposed dry dock facilities are important to the continued viability of Portland as a world port.

4. The proposed dry dock, both during construction and in full operation, will provide many new jobs in the metropolitan area—approximately 250 direct jobs and 900 indirect jobs.

5. The amount of local taxes required to finance the proposal will be offset at least four times by the taxes returned to the community from direct and indirect users of the facilities.

6. The ship repair yard has been a money-making operation in the last five years and can be expected to provide up to \$50 million during the first 10 years of operation towards needed capital improvements to other Port marine facilities.

²\$5.4 million per year for the first 5 years; \$6.9 million per year thereafter.

³Net revenues are defined as gross revenue from the operation of the new dry dock less direct operating costs of the new dry dock, excluding depreciation and allocated general overhead.

7. The proposed dry dock will contribute toward keeping U.S. flag vessels in U.S. ship repair yards.

III. ARGUMENTS PRESENTED AGAINST THE PROPOSAL

1. The reliability of the ship repair market is too uncertain at this time to justify the Port's projections.

2. The cost to the taxpayer of providing those direct and indirect jobs projected to result from the proposed dry dock is too high.

3. It is only the ship owners and ship repair contractors who will directly obtain the benefits and profits resulting from this investment, not the taxpayers themselves.

4. The proposed dry dock should not be allowed to compete through public subsidies with other dry docks on the west coast operated and maintained exclusively by private industry.

5. The proposed dry dock measure will provide for the allocation of taxpayer-derived capital to only one particular industry.

6. The proposed dry dock measure would allow surplus monies from the operation of the new dock to be available for any lawful purpose the Port deems appropriate without prior approval of the voters.

7. In the context of allocating limited public funds, the proposed dry dock has a lower priority than those direct public services benefitting the entire community, i.e. libraries, police and fire protection, schools, parks, etc.

IV. DISCUSSION

A. The Analyses, Projections and Benefits Upon Which the Port's Dry Dock Proposal is Based

1. *The McMullen Report.* In October 1973 the Port retained John J. McMullen Associates, Inc., a marine engineering and transportation consulting firm in New York, to conduct a study of the ship repair market on the west coast of the United States for the purpose of defining the share of that market that would be available to the Swan Island repair yard through 1985. The first market study was completed in February of 1974 and concluded that there existed a potentially valuable market for the repair of large oil tankers and liquid natural gas carriers needed for the Alaskan-west coast trade, as well as growth in the repair of naval and general cargo vessels. The report also concluded that a major marketing effort would be required in order to capture a large enough share of these markets to justify the construction of a new dry dock.

In September of 1975 the Port again retained McMullen and Associates for the purpose of re-appraising the Pacific Coast ship repair market and preparing a plan for the development and expansion of the Swan Island repair yard facilities. This second report was completed in February of 1976 and concluded in essence that:

(1) The existing market for ship repair work in Portland is essentially stagnant, with no significant long term growth potential without the addition of new facilities designed for and capable of handling larger ships. This conclusion stemmed from the fact that vessels, regardless of type, are becoming larger, faster and more efficient, and as a result, the total number of vessels is expected to decline, resulting in fewer port calls and less dry docking requirements.

(2) A considerable fleet of crude oil tankers and liquified natural gas carriers is being planned for operation between Alaska and California, and these vessels generally exceed the capacities of existing ship repair facilities. These vessels will have to go to Singapore or Yokohama for dry docking unless a U.S. shipyard provides adequate facilities. Because it is doubtful there will be enough business from these vessels to justify two such repair yards, the first to be built is virtually certain to deter competition.

The Second McMullen report included a detailed discussion and analysis of each of the following significant areas:

(1) *The Pacific Coast Ship Repair Market*: A survey, by each general ship type category,⁴ of shipping activity and requirements along the Pacific Coast, both presently existing and as forecast through 1995, with a view to identifying the number of such vessels available to the proposed new dry dock.

(2) *The Extent of Pacific Coast Ship Repair Activity*: The report then converted the repair market projections into projections of dry docking demands, i.e., into requirements for dry docks and lay-up berths. This process involved an analysis of existing and potential competition on the Pacific Coast and resulted in projected activity for the Swan Island repair yard at two levels of probability: (a) that portion of the available market that can fairly be considered "captive," consisting of those vessels restricted to the Columbia Basin and those that are too large for existing facilities and therefore constrained to use the new dry dock, and (b) that portion of the available market for which the new dock would be "competitive," consisting of that share of repair activity with respect to "non-captive" vessels that Swan Island could fairly expect to obtain as a result of its competitive position with other ship repair yards.

(3) *Costs, Revenues and Financial Projections*: In order to determine the financial feasibility of the new dry dock, the report then analyzed Project Costs, consisting of the costs of construction and equipment acquisition, Operating Costs, consisting of labor, materials and other direct costs, and Operating Revenues. Upon the basis of these figures, the report ultimately presented nine debt "scenarios" corresponding to nine combinations of interest rates and amortization periods, e.g., six percent interest for 30 years.

The Report prefaces these financial projections with several precautionary observations, including most importantly the following:

- (a) The sensitivity of the projections to variations in the values of operating costs and revenues is important and should be studied;
- (b) The revenues from the new dry dock are heavily dependent upon the ship repair market as projected;
- (c) The revenues as projected are based on a level of dry docking activity that will be achievable only through strong marketing efforts or the imposition of competitive rates for the shipyard facilities and services.

Based upon these observations, the report concludes that, "it would be instructive to undertake additional analytical work on the exact extent of the revenues that the shipyard can expect to earn for a given level of activity and a selected tariff structure . . ."

B. Effect of the Proposed Dry Dock

1. Economic Effect Upon Community

The Port predicts that the proposed new dry dock will generate during the first ten years of operation total net revenues in the amount of \$109 million. After payment of debt service, this results in a total surplus for the same period of \$51 million. Taxpayer contributions towards debt service are not expected beyond the third year of operation.

The revenue projections have caused the Port to conclude that the new dry dock will have a very favorable impact upon the economy of the metropolitan area. In addition to providing 250 direct and 900 indirect jobs, the new dock will secure existing jobs and bring into the local economy revenues from non-local shipowners. During construction, the dock will generate several hundred temporary jobs as well.

The Port's claims that the dock will improve the local economy seem to be supported by the Port's past performance. Revenues from the shipyard alone during the last 20 years are indicated by the following:

<i>Year</i>	<i>Gross Revenues</i>	<i>Net Revenues</i>
1955-56	\$ 575,000	\$ 13,000
1965-66	1,430,000	330,000
1975-76	3,770,000	1,110,000

⁴i.e., tankers, bulk carriers, containerships, etc.

⁵McMullen II, p. X-4.

In 1975, Port activities generated over \$28 million in local taxes and over \$25 million in state taxes. Users of the Port during 1975 expended over \$45 million.

2. Economic Effect Upon Other Capital Improvements Planned by the Port

In order to maintain the general marine facilities upon which Portland's commerce and economy heavily depend, the Port plans to spend \$87 million during the next 20 years upon capital improvements to marine facilities and \$40 million upon capital improvements to other Port projects, e.g., industrial property development, dredging the river channel, etc. These improvements, when allowing for inflation, could amount to approximately \$300 million.

The Port feels that the revenues generated from the new dry dock facilities will make a substantial contribution toward financing these planned improvements. The taxpayers will ultimately be relieved from the burden of financing these improvements to the extent the dry dock revenues serve this purpose.

3. Environmental Effect

With respect to the environmental aspects of the proposed dry dock facilities, it is important to note that the tankers utilizing the facilities will come up the river empty and will present no danger of massive oil spills.

An environmental viability study prepared for the Port by the firm of Moffat, Nichol and Bonney, Inc., Consulting Engineers, identified only four areas that had a potential for substantial negative environmental effects. Those items which were thought to require special consideration and perhaps mitigation measures were: 1) suspended particulates from sandblasting, 2) process water and stormwater runoff from the dry dock, 3) wave propagation from the large ships, and 4) increased vessel congestion. The report suggested methods of mitigating these effects, including enclosed work areas, air curtains, wet blasting and dust collectors for particulates, use of dry dock collection and drainage system for the stormwater runoff and ship speed controls to mitigate the wave propagation effect.

The Oregon Environmental Council has examined the proposed project and its environmental effects. After its initial review, a number of questions were addressed to the Port and the response to those questions satisfied the Council that the dry dock and related improvements would create no significant negative environmental effects. The OEC Board of Directors voted to remain neutral on the measure, neither supporting nor opposing it.

The Oregon Department of Environmental Quality has maintained close contact with the Port throughout the planning process and feels the new facilities will create no problems which cannot be handled and may, in fact improve some existing conditions.

Your Committee discovered virtually no opposition to the development on environmental grounds.

C. The Reliability of the Ship Repair Market as Projected

The Committee, both individually and as a whole, spent a great deal of time evaluating and analyzing the market projections contained in the McMullen report. On numerous occasions, several Committee members most familiar with the report met with Port personnel to discuss those projections and to resolve any misunderstandings with respect to the content, methodology and projections of the report.

As the McMullen report concluded, "it would be instructive to undertake additional analytical work on the exact extent of the revenues that the shipyard can expect to earn for a given level of activity and a selected tariff structure." Your Committee did precisely this.

Upon the basis of this analysis the Committee concluded that as a result of uncertainties with respect to the future demand for certain categories of vessels, *the market upon which the Port's projections are based does not justify at this time the Port's conclusions.* The vessels upon which the projections so heavily rely and with respect to which the uncertainties exist are the large tankers and liquified natural gas carriers.

The Committee also gave a great deal of consideration to the effect of foreign ship repair yards upon the proposed Swan Island development. Although the effect of this competition upon the new dry dock would not be devastating, the Committee concluded that the problem deserves more consideration than it received.

1. Uncertainties with respect to the transportation and destination of Alaskan oil

Because of the size of the tankers designed for the Alaskan oil trade, they are a crucial part of the Pacific coast ship repair market. Revenues from the drydocking of one of these tankers would amount to approximately \$385,000. When this amount is compared to the total projected revenues from the new dock, the importance of these vessels and the vulnerability of any projections heavily relying upon them become apparent. Drydocking revenues are determined by a vessel's gross registered tons, and although smaller ships would use the new facilities, it would take the combined tonnage of several smaller ships to equal the tonnage and, therefore, the revenue-producing ability of the large Alaskan-trade vessels.

The Alaskan oil trade seems uncertain at this time for two reasons: 1) uncertainties with respect to the destination of the oil and 2) uncertainties with respect to the manner in which the oil will be transported.

The ultimate resolution of these uncertainties is complicated by the political, economic and environmental ramifications involved.

a. Destination of the Oil

By 1978, when the Alaskan pipeline from the North Slope will be pumping oil at the rate of 1.2 million barrels a day, as much as half the oil may have no place to go. West coast refineries are not presently capable of processing the heavy, high-sulphur content Alaskan crude, and there are no present means of getting the oil to the Midwest where it is in great demand.

In order to refine Alaskan crude, the western refineries must be modified and these modifications have not yet been made. The oil companies have stated that the price of the oil products produced at these locations does not justify the costs of conversion.

As a result of the surplus that is expected, several alternatives have been proposed by the oil companies and government officials:

1) *Diversion of oil to Japan:* One of the proposed alternatives involves shipping the excess Alaskan crude to Japan instead of California. An equal amount of mid-eastern oil destined for Japan would then be exchanged for the Alaskan oil and shipped to the east coast.

2) *Pipeline from Long Beach to Midland, Texas:* SOHIO (Standard Oil of Ohio) has proposed converting a partially existing natural gas pipeline between Long Beach and Midland to carry surplus Alaskan oil to the midwest. The pipeline, owned by El Paso Natural Gas and no longer in use, would have to be converted for crude oil and its pumps reversed, as it previously transported liquid natural gas from Texas to California.

The California Air Resources Board, however, has withheld approval of this project on environmental grounds. The transfer of Alaskan crude from tankers to the pipeline facilities would involve the emission of up to 81 tons of hydrocarbon vapors a day into the air—the equivalent of six million automobiles. Although SOHIO insists this problem can be eliminated by burning these vapors and through the utilization of tankers with segregated ballast tanks, the environmental authorities have yet to be convinced.

3) *Pipeline from Port Angeles, Washington to Clearbrook, Minnesota*

It has been proposed that a pipeline from Port Angeles to Clearbrook, Minnesota be constructed. The Alaskan crude would be transported to Minnesota and then distributed by presently existing midwestern pipelines.

4) *Pipeline from Kitimat, B.C. to Alberta*

A third pipeline proposal involves piping Alaskan crude from British Columbia to Alberta, at which point it would be integrated with existing midwestern lines.

The question of diverting Alaskan oil to Japan is complicated by the procedures that would have to be complied with. Congress, in adopting legislation authorizing the construction of the Alaskan pipeline, specifically prohibited the exporting of Alaskan oil. This prohibition was included in anticipation of the very proposal now being asserted by some oil company and government officials. There is, however, an exception to the legislative prohibition. The President may, by executive order, determine that such exports would be beneficial to the American consumer. Any such approval of a "swap agreement" would be subject to Congressional review and would be subject to the following conditions:

1. The cost of the oil exchanged must be the same as the cost of Alaskan crude;
2. The quantities exchanged must be the same; and
3. The quality of the oil accepted in exchange must be of at least the same quality as the Alaskan oil.

Although the probability of an exchange program is good, the magnitude of oil involved is very much up in the air.

In light of these uncertainties and proposed alternatives, the Federal Energy Administration is currently circulating a report dealing with this problem, to all involved federal agencies and the Western States. Upon the basis of comments it receives, the FEA will then review the situation, outline various priorities and make certain policy recommendations. These are not expected until next year.

b. Transportation of the Oil

The uncertainties with respect to transportation of the Alaskan oil stem directly from the uncertainties that exist with respect to its destination. The transportation of this oil will in any event involve tankers, but the size and number of tankers involved depends upon the destination of the excess oil. The transportation alternatives that exist include the following:

- 1) Transportation of Alaskan oil by "super" tanker to the west coast to be consumed by west coast refineries or shipped by pipeline to the midwest.
- 2) Transportation of Alaskan oil by "super" tanker to the west coast, with any surplus being then transferred to Panamax size tankers for transportation through the Panama Canal to the east.
- 3) Transportation of the oil by "super" tanker and Panamax tankers, with the former destined for the west coast and the latter destined for the east.
- 4) Transportation of the oil to both Japan and the west coast involving any combination of the above alternatives.

It is therefore apparent that the number and location of pipelines used, if any, and the extent of any diversion of oil to Japan directly affect the magnitude of the west coast tanker repair market.

2. Uncertainties With Respect to the Development and Destination of Alaskan Liquid Natural Gas

Liquid natural gas is presently being extracted from the Kenai Peninsula in Alaska. With respect to this gas, there is an existing fleet of moderately sized liquid natural gas carriers operating off the Pacific coast. There is, however, an additional amount of natural gas in Alaska's North Slope, and plans are currently under way to develop these fields and transport the gas to the midwest. Of the three transportation alternatives proposed to date, two involve transporting the liquid natural gas by pipeline directly to the midwest. The third involves the construction of a pipeline from Prudhoe Bay paralleling the pipeline presently under construction.

If the third proposal is implemented, there will be a significant increase in the number and size of liquid natural gas carriers operating off the West coast. The Committee concluded that the Port's projections with respect to this type of vessel would be justified only in the event the third proposal prevails.

3. Competition from Foreign Ship Repair Yards

Foreign ship repair yards have historically provided ship repair services at prices substantially lower than those of U.S. yards. These lower prices often justify the expense involved in travelling across the Pacific in order to obtain the services. Although rising costs in foreign yards have closed the gap considerably, there still exists in the Committee's mind the concern that competition from these yards could significantly affect the Port's projections. This concern stems from the fact that the pricing policies of some foreign yards are based on social concerns and subsidies rather than the actual costs of the services provided.

In order to deter utilization of these yards by U.S. vessels, a duty in the amount of 50 percent of the value of the repair work is imposed upon U.S. vessels upon their return to a U.S. port. The amount of the duties paid last year indicates that foreign competition has had little impact on domestic yards in the past. There is also a subsidy available to certain ships which use U.S. repair yards towards the costs of repair.

Notwithstanding these incentives, the Committee feels that the costs of drydocking the large vessels upon which the Port relies may justify their owner's use of foreign yards in the future to a greater extent than in the past. To whatever extent this occurs, the Port's projections will be significantly affected.

V. CONCLUSIONS

1. As a result of uncertainties with respect to the future demand for certain categories of vessels, the market upon which the Port's projections are based does not justify at this time the Port's conclusions.

2. These uncertainties are so replete with political, economic and environmental ramifications that their resolution is not likely for another year.

3. The Port should postpone construction of the proposed dry dock until such time as these uncertainties are resolved and it is able to determine whether a market exists of sufficient magnitude to justify construction of the new dock and assure its economic feasibility.

4. In the interim, the Port should submit its proposal to the Oregon legislature and make every effort to obtain the necessary authority to:

- a) pledge revenues from the new dock to the payment of debt service; and
- b) capitalize interest upon the bonds it proposes to sell.

5. The Port should also during the interim develop the aggressive marketing program that the McMullen report indicates is essential to the success of the proposal.

VI. RECOMMENDATION

Your Committee unanimously recommends that the City Club of Portland support a "NO" vote on Measure No. 26-15 on November 2, 1976.

Respectfully submitted,

Paul Fellner

James Kirkham Johns

David J. Lewis

James C. Wolfard

Robert G. Yingling, Jr.

Ann Hoffstetter, *Chairman*

Approved by the Research Board and Board of Governors in a joint meeting October 14, 1976, and ordered published and distributed to the membership for consideration and action October 29, 1976.

APPENDIX A

The following persons were interviewed either by the Committee as a whole or by individual Committee members:

John Adger, Office Director, Federal Energy Administration, Washington, D.C.
Lloyd E. Anderson, Executive Director, Port of Portland
Don Barney, Community Development Director, Port of Portland
Robert E. Boldt, Deputy Regional Administrator, Federal Energy Administration, San Francisco
Ronald Buell, Publisher, *Willamette Week*
James Butler, Northwest Marine Iron Works, Portland
Alan "Punch" Green, Commissioner, Port of Portland
George Grove, Director, Port of Astoria
Gilbert J. Gutjahr, Administrative Officer, Tax Supervising and Conservation Commission
Steve Hickock, Administrative Assistant to Sen. Mark Hatfield (Portland office)
Walt Hitchcock, The Pihas Schmidt Westerdahl Co.
Bruce Hobbs, Dillingham Marine & Manufacturing Co., Ship Repair Division
Nancy Hoover, Citizen's Evaluation Committee
Andrea Hyslop, Oregon Environmental Council
Chris Kammer, Public Information Specialist, Port of Portland
David Klinges, Assistant Vice President, Bethlehem Steel Corp., Bethlehem, PA.
Oliver Larsen, Executive Secretary, Greater Portland Chamber of Commerce
Barbara Lucas, League of Women Voters of Oregon, Portland chapter
David N. Neset, Asst. Director, Marine Services, Port of Portland
Michael O'Brien, C.S.C., Vice President, University of Portland
F. Glenn O'Dell, Commissioner, Port of Portland
T. S. Prideaux, Exec. Vice President, U.S. National Bank of Oregon
Howard Rankin, Attorney, Bond Consultant to Port of Portland
Steve Roso, President, North Portland Citizens' Committee
Mr. Ruddy, Executive Secretary, Shipbuilders Council of America, Washington, D.C.
Arthur W. Stout, Jr., President, Todd Shipbuilding Corp., New York, N.Y.
John Trebeau, U.S. Treasury Department, Washington, D.C.
Gabriel Vallicelli, Controller, Port of Portland
Jack Weathersbee, Administrator, Air Quality Division, Oregon Department of Environmental Quality
Edward Westerdahl, The Pihas Schmidt Westerdahl Co.; former Executive Director, Port of Portland
Larry Williams, Executive Director, Oregon Environmental Council
Individual members spoke with several other individuals knowledgeable about marine affairs who did not wish to be identified and whose wishes the Committee has honored.

APPENDIX B

REFERENCES

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STATEMENT ON STATE MEASURE NO. 11

In view of the time limitations for study of this November ballot measure, and due to the fact that the City Club has on file an extensive study on fluoridation, a decision was made by the Research Board that the Standing Committee on Health, Welfare should review the measure and provide its findings by means of an oral report to the membership.

Follows the ballot title and committee conclusions and recommendation. The oral report will be presented Friday, October 29.

PROHIBITS ADDING FLUORIDES TO WATER SUPPLIES

State Ballot Measure 11 would make it unlawful and subject to abatement as a public nuisance for any person or governmental unit to add fluoride or fluorine-containing compounds to any community water supply system.

If SM 11 is approved by the voters, Oregon Revised Statutes, 448.265 would be amended as follows: (Changes are in bold face.)

Section 1. ORS 448.265

Prohibited action; nuisance abatement. (1) It shall be unlawful for any person to do any of the following if the result would be to pollute a domestic water supply source or to destroy or endanger a public or community water supply:

- (a) Establish or maintain any slaughter pen, stock feeding yards or hogpens.
- (b) Deposit or maintain any uncleanly or unwholesome substance.

- (2) Violation of paragraph (a) or (b) of subsection (1) **or subsection (3)** of this section is a public nuisance and may be abated as other nuisances under the laws of this state.

- (3) **It shall be unlawful for any person or governmental unit to add fluoride or fluorine containing compounds to any community water supply system.**

Section 2. **Any local ordinance(s) or state law(s) in conflict with the above section is (are) hereby repealed.**

The Committee believes, unanimously, that: (a) The State of Oregon has adequate control of "potability" standards; (b) It should remain the option of all water districts to make decisions as to the additives as long as they comply with the State standards for potability.

The Committee recommends that the City Club oppose passage of SM No. 11 with a "NO" vote on November 2, 1976.

Respectfully submitted,

Ruth Hocks

Lillian Hoesly

Ross Miller

Barbara J. Seymour

Rev. Edward Terry

Alex Pierce, *Chairman*

Standing Committee on

Health, Welfare & Social Services

VOTE NOVEMBER 2 *(Continued from page 146)*

#7 PARTIAL PUBLIC FUNDING OF ELECTION CAMPAIGNS

Committee Majority	NO
Committee Minority	YES
Club Vote	YES

#8 ONE CENT GAS TAX

Committee	YES
Club Vote	YES

#9 NUCLEAR SAFEGUARDS

Committee Majority	NO
Committee Minority	YES
Club Vote	NO

#10 REPEALS SB 100 (LCDC)

Committee	NO
Club Vote	_____

#11 FLUORIDATION PROHIBITION

Committee	NO
Club Vote	_____

#12 REPEALS CRAG, COG

Committee Majority	NO
Committee Minority	YES
Club Vote	_____

MULTNOMAH COUNTY

#26-13 CHARTER AMENDMENT

Committee	NO
Club Vote	NO

#26-14 EDGEFIELD MANOR LEVY

Committee Majority	NO
Committee Minority	YES
Club Vote	NO

#26-15 PORT OF PORTLAND DRY-DOCK LEVY

Committee	NO
Club Vote	_____

MUNICIPAL

#52 RESTRICTING EXPOSITION-RECREATION COMMISSION'S AUTHORITY

Committee	NO
Club Vote	NO

#53 MEMORIAL COLISEUM COMPLEX ADDITION BONDS

Committee	YES
Club Vote	YES

#54 CITY PURCHASE, CERTAIN PACIFIC POWER FACILITIES

Committee (two)	YES
Committee (two)	NO
Club Vote	NO